

PRELIMINARY DISCUSSION DRAFT OUTLINE

Framework for the East Contra Costa County HCP/NCCP

This document is intended to outline key components of the HCP/NCCP and serve as a focus of discussion for the Coordination Group. The document will record key recommendations of the Coordination Group as they are made. The Framework cannot replace the detailed information that will be contained in supporting documentation such as the Conservation Strategy and other chapters of the plan itself (these will continue to be discussed), but it can guide development of the more detailed work products and allow the Coordination Group to focus on the most important policy questions.

Aspects from two previous documents have been integrated in this draft: The Principles of Participation approved by HCPA member agencies upon joining the HCPA (County version is used as a starting point) are included as an attachment. The Principles have been referenced to the section of this Framework that discusses the relevant subject matter. and the list of key upcoming decisions from the process flow chart presented in July of 2002.

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I Purpose of the HCP/NCCP

Mission statement (below) recommended by Coordination Group on 5-17-02 and approved by the Executive Governing Committee on 5-23-02.

The East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan will provide comprehensive species, wetlands and ecosystem conservation and contribute to recovery of endangered species within East Contra Costa County, while:

- balancing open space, habitat, agriculture, and urban development;

- reducing the cost and increasing the clarity and consistency of federal and state permitting by consolidating and streamlining these processes into one, locally-controlled plan,
- encouraging, where appropriate, the multiple use of protected areas, including recreation and agriculture,
- sharing the costs and benefits of the habitat conservation plan as widely and equitably as possible, and
- protecting the rights of private property owners.

II Background: The Intersection of Natural Resources, Development, and Agriculture in East County

Language below was adapted from a grant application, is still somewhat rough, and should be refined over time. ~~is mainly boiler plate from a grant application and is included just to show the kind of information that could be presented in this section. In other words, please remember that this is just a draft to prompt discussion.~~

Eastern Contra Costa County is one of the fastest growing regions in the state--with a population that is predicted to grow by 127,000 people by 2025¹--providing important new housing for the Bay Area's growing workforce. Though efforts are underway to direct future growth toward infill opportunities (to the maximum extent practicable) and to finding more sustainable ways to grow, existing land use plans and development approvals ~~will~~ allow significant new development on rangelands and irrigated crop lands. This new development will displace a variety of natural habitats, including valley floor and foothill grassland, oak woodland, oak woodland savannah, chaparral, riparian woodland, emergent wetland, and vernal pool habitat. Anticipated growth could also threaten key habitat corridors needed to protect a variety of state and federally listed threatened and endangered species. Approximately 154 special status species occur or could occur in the East County area, including the San Joaquin Kit Fox, California Red-Legged Frog, Alameda Whipsnake, Golden Eagle, Western Burrowing Owl, Vernal Pool Fairy Shrimp, and Diablo Helianthella. The East County area is also home to productive agricultural lands, including intensively cultivated areas with high quality soils in lower elevations and productive grazing lands in the hills that cover a large part of the region. Agriculturalists depend on these lands for income and as an important investment.

Conflict between these different land-uses or community values is, to some extent, unavoidable. However, coordinated conservation planning is an opportunity to reduce the level of conflict and to uncover mutually acceptable approaches to these problems.

III Mechanism: the HCP/NCCP as an Alternative to Project-By-Project Permitting and Mitigation

This is excerpted from an old staff report and is too long, but again provides an example of the kind of information that could be included here.

¹ ABAG, Projections 2002. By 2025, the populations of Brentwood, Oakley, Pittsburg, and Antioch are expected to grow by 123%, 57%, 52%, and 30%, respectively.

Current Process for Complying with Endangered Species Acts and Other Resource Protection Regulations:

Public agencies, developers, and other project sponsors currently address endangered species regulations individually on a project-by-project basis. Potential impacts to endangered species are considered and potentially mitigated within the California Environmental Quality Act (CEQA) process, but in many cases must also be addressed through individual consultation with the USFWS and CDFG. Regardless of regulatory venue, endangered species compliance typically requires:

- a) thorough field surveys of the site at appropriate times for endangered species;
- b) negotiations on mitigation, site design, and construction practices; and
- c) identification and procurement of any needed off-site mitigation and/or dedication of on-site mitigation (e.g., open space easements) and establishment of mitigation monitoring program.

The above compliance is performed individually by the landowner/developer and the USFWS and CDFG in order to obtain an individual take permit (ITP) pursuant to CESA section 2081 and FESA section 10 when a non-federal action (i.e., project or activity) may jeopardize or impact a listed species, or its habitat. In Contra Costa County, the ITP is more often issued under section 7 of FESA which applies when a project has federal funding or requires federal permits, such as for wetlands. The local land use agency is usually not involved, but does separately negotiate mitigation under CEQA.

The amount of time and funding dedicated to each of the above three tasks varies, sometimes dramatically, from one project to another. Some project proponents in East County have incurred significant expense in this process. All project proponents must contend with some uncertainty regarding how long endangered species compliance will take, how much mitigation will be required, and what will happen in the future if unforeseen circumstances arise that affect a protected species before an ITP issued.

In addition to endangered species requirements, CEQA (and NEPA if a federal project), and any resource protection measures adopted by the local land use planning agency, project proponents must also comply with a number of other environmental regulations. For example, actions that could affect wetlands must have a thorough site survey and formal wetland delineation sanctioned by an appropriate regulatory agency. Such projects must also receive permits from the U.S. Army Corps of Engineers (COE), and the Regional Water Quality Control Board (RWQCB). Depending on the project, the U.S. Environmental Protection Agency (EPA), USFWS, and CDFG might be involved in processing the wetlands permit from the COE. Projects affecting streams require a streambed alteration agreement with CDFG and may also be subject to wetland regulations. Construction activities require a separate permit from the RWQCB to control water quality impacts. Projects might also face local and other restrictions on impacts to prime agricultural lands.

How the HCP/NCCP's Will Provide an Alternative Process for Compliance:

The East County HCP/NCCP establishes a coordinated process for permitting and mitigating the incidental take of endangered species that can be used in place of the current, project-by-project approach. Rather than individually surveying, negotiating, and securing mitigation, project proponents typically receive an ITP by paying a fee (and/or dedicating land), performing limited surveys, and adhering to protocols to avoid and minimize impacts during construction. The fees are collected by the Implementation Entity (TBD) (often a Joint Powers Authority composed of representatives of local agencies). The Implementation Entity then uses the fee money, as well as grants and any other funding sources established in the plan, to purchase habitat lands or easements from willing sellers. Collected funds are also used for monitoring and any habitat enhancement or management actions.

The HCP/NCCP will (we hope) also offer an alternative, parallel means for complying with wetlands regulations, including the Sections 404 and 401 of the federal Clean Water Act (wetlands fill and water quality certification) and Section 1601 of the California Fish and Game Code (Streambed Alteration). The approach to complying with wetlands regulations will be similar to the approach used for endangered species compliance: coordination of off-site mitigation through the plan when impacts cannot be avoided.

A comprehensive, landscape-level analysis of the biological resources of East County forms the basis for the permits issued and conservation actions taken under the plan. By examining conservation priorities at a regional scale, the plan is better suited for implementing key conservation biology principles than more focused work with perhaps greater detail. The biological work in this plan cannot replace the site-specific biological work that will still be required under the California Environmental Quality Act for specific projects, but it can provide a broader scientific context, assist with evaluating cumulative impacts, and ~~it~~ should facilitate both the preparation and review of future site-specific studies.

HCP/NCCP's are intended to benefit developers by improving regulatory certainty, by reducing the need for surveys and mitigation negotiations, and by providing a coordinated, more cost effective system for acquiring mitigation. HCP/NCCP's are also intended to benefit species by replacing the current project-by-project mitigation with a coordinated system more suitable for protecting connected blocks of habitat in a biologically sound manner. Larger- and connected blocks of conserved lands will increase the potential to benefit and preserve multiple species.

IV Key Permit Terms and Conditions

Most of the information provided below has been discussed in a general way but has not been the focus of specific recommendations or decisions.

Relevant Principles of Participation:

12. Opportunities for site-by-site planning and permitting by individual property owners should be continued.

14. The plan should provide for the issuance of a programmatic 404 permit and identify any required wetlands mitigation. Alternatively, the HCP must be accepted as tacit approval by USFWS of any 404 permit application to the U.S. Army Corps of Engineers within the affected area and consistent with the HCP.

Summarized below are key aspects of the permits to be requested through the HCP/NCCP.

Term of permit: 30 years (*local agency's current working assumption ~~from the beginning of the process~~*)

Permit holders: TBD (~~local land use planning agencies, individually (probably), and~~ ?Could be the implementing entity or each individual jurisdiction (i.e., County, cities, CCWD, and the organization responsible for managing the Preserves))

Permit issuers: U.S. Fish and Wildlife Service
California Department of Fish and Game
Wetlands agencies like USACE and SWRCB and EPA (we hope)

Desired permits:

- a) Section 10 of FESA (~~Regional~~ Incidental Take Permit under Section 10 of the Federal Endangered Species Act) (see badly formatted speceis lists below)

**Species to be covered
by the permit:**

Townsend's Western Big-eared Bat
San Joaquin Kit Fox
Tricolored Blackbird
Golden Eagle
Western Burrowing Owl
Swainson's Hawk
Silvery Legless Lizard
Alameda Whipsnake
Giant Garter Snake
California Tiger Salamander
California Red-legged Frog
Foothill Yellow-legged Frog
Longhorn Fairy Shrimp
Vernal Pool Fairy Shrimp
Midvalley Fairy Shrimp
Vernal Pool Tadpole Shrimp
Mount Diablo Manzanita
Brittlescale
San Joaquin Spearscale
Big Tarplant
Mount Diablo Fairy Lantern
Recurved Larkspur
Diablo Helianthella
Brewer's Dwarf Flax
Showy Madia
Adobe Navarretia

No-Take Species (Extremely Rare Plants and Fully Protected Species)

Common Name	Status ¹		
Scientific Name	State	Federal	Rationale
Plants			
Large-flowered fieldneck <i>Amorpha grandiflora</i>	SE	FE	No natural populations occur in the inventory area; if one were discovered, it would be highly significant and should be preserved.
Alkali milkweed <i>Asclepias linearis</i>	IB	-	Thought to be extirpated from Contra Costa County; suitable habitat may be present in the inventory area; if any populations are found, they would have to be preserved.
Mount Diablo buckwheat <i>Eriogonum montanum</i>	IA	-	Presumed extinct; if any populations were discovered in the inventory area, they would have to be preserved.
Diamond-petaled poppy <i>Echeveria densipetala</i>	IB	-	Known from only two populations in the world, not seen in the inventory area since 1988. Any populations found in the inventory area would be highly significant.
Contra Costa goldfields <i>Leontodon californicus</i>	IB	FE	All known populations in inventory area have been extirpated; if new populations were discovered, they would have to be preserved.
Cape-fruited tropicdaisy <i>Tropidocarpus caperidifolius</i>	IA	-	Presumed extinct; historic occurrence in the inventory area; if discovered, population would have to be preserved.
Birds			
White-tailed Kite <i>Elaenia leucurus</i>	FP	-	No take is allowed because species is fully protected.
Parusina Falcon <i>Falco peregrinus</i>	FP	-	No take is allowed because species is fully protected.
Golden Eagle <i>Aquila chrysaetos</i>	FP	BOFA	No take is allowed because species is fully protected.
States:			
Federal	SE	State Listed as Endangered	
FE	SE	State Listed as Threatened	
FT	CSC	California Special Concern Species	
FSC	SR	State Rare (plants)	
BOFA	FP	Fully Protected	
California Native Plant Society			
	IA	Presumed Extinct	
	IB	Rare or Endangered in California and Elsewhere	

- ~~b)~~ Section ~~2800-2835~~ of CESA (~~Regional~~ Incidental Take Permit under the California Endangered Species Act through provisions of the California Natural Community Conservation Planning Act)
- ~~e)c)~~ Section 1601 (~~Regional Master~~ streambed alteration agreement under the California Fish and Game Code)
- ~~d)d)~~ Section 404 of CWA (~~Programmatic General Permit or~~ Regional General Permit under Section ~~404~~ of the ~~federal Federal~~ Clean ~~water Water~~ Act)
- ~~e)e)~~ Section 401 of CWA (Water Quality Certification ~~from the State Water Resources Control Board~~)
- ~~f)f)~~ ~~Section 7~~ assurances?

Permit area: TBD (preliminary Impact Analysis begins this discussion)
 The permit area criteria we began to outline on March 20 perhaps belong here once we have pursued that discussion a bit further.

Covered activities:

Below please find a DRAFT of the covered activities list reflecting the Coordination Group discussion through its August 15, 2002 meeting:

Discussion Draft of Covered Activities List²

1. Residential, commercial, and industrial development (and other development activities, such as described in items 2 thru 4, inside the Urban Limit Line)
2. Road and highway construction and maintenance outside the ULL
3. Water infrastructure construction and maintenance outside the ULL
4. Flood control project construction and maintenance outside the ULL
5. Sanitary system infrastructure construction and maintenance
6. Rural recreational facility construction, maintenance, and operation
7. Recreational use of rural parks and preserves
8. Mining facility construction, operation, and maintenance (if requested by mining companies)
9. Miscellaneous development outside the ULL (to be defined later)
10. Population surveys, species relocation, habitat restoration, management, and scientific research on preserve lands or potential preserve lands
11. Clearing, grading, or filling of natural communities for new irrigated agriculture (if requested by agricultural community)
12. On-going operations of existing agriculture (if requested by agricultural community)
13. Wind turbines to be discussed later

Voluntary participation: participation principle #12 needs to be articulated more fully here

² The introductory text on this subject should explain the difference between Section 7 and Section 10 of the Federal Endangered Species Act and make clear that, while an HCP can only provide coverage under section 10, HCPs can be an instrument for identifying permit conditions under Section 7.

V Biological Commitments

Relevant Principles of Participation:

~~9.Habitat areas acquired through the plan must be within Contra Costa County. Expenditure of funds collected to protect habitat should be guided primarily by biological considerations. Economic development opportunities and public open space value should be secondary considerations in spending habitat protection funds.~~

~~17.The HCP's conservation strategy should provide full recognition of past and future public and private habitat and open space acquisition and other mitigation efforts. Existing public lands should not be considered for future species mitigation, since many of these areas were acquired for other purposes. Certainly such areas can be considered for limited species enhancement projects, but the focus should be on preservation of habitat not already protected or publicly managed. Mitigation should result in expansions and enhancements of preserved habitat rather than restrictions on use of existing public lands.~~

~~19.The plan should rely on avoidance as the primary means for addressing irreplaceable resources such as creeks, wetlands, and endangered native plant communities.~~

This section is left largely blank for now, though several comments were made on March 20 that seem appropriate for including here as we start to fill this section out. It is tempting to just put a note here that says “see Conservation Strategy”, though that would defeat the purpose this document. Suggest culling key principles from the Preliminary Draft Conservation ~~Strategy~~Strategy as we proceed. Could reference aspects of NCCP requirements here. Also, comments from past Coordination Group meetings, such as the importance of small scale features and the importance of not forgetting about such features even though many activities to protect such resources would be deferred to implementation could be recorded here.

Qualitative Conservation Requirements:

~~—Habitat connectivity must be carefully analyzed and maximized, both within the inventory area and to areas outside the inventory area and the County.~~

The Design of the Preserve

Land acquisitionconservation strategy will be designed to meet the biological goals and objectives of the plan. The strategy will be based on four fundamental regulatory goals: mitigate the impacts to the covered species to the maximum extent practicable, contribute to the recovery of the covered species, ~~to~~ maintain ecosystem processes, and conserve biological diversity.

Preserve Design Principles*

Maximum Size

Minimize the Number of Preserve Units

Link Preserves

Include Urban Buffer

Minimize Edge

Maximize Environmental Gradients

Consider Watersheds

Consider Full Ecological Range of Communities

*See the Conservation Strategy for a description of each of these principles

- Conservation dollars must be spent efficiently and effectively. Conservation easements may be an effective tool in this regard, though the funding strategy for the plan should not assume that such transactions will be as common as they might be in an ideal situation. Conservation easements have not been common in this area in the past and factors that have limited their use may continue to be limiting in the future.
- Restoration of native habitats and plants must be aggressively pursued. Habitat restoration should be included in the conservation strategy for habitats that have historically been lost or degraded such as riparian woodland, seasonal wetlands, and native grasslands.
- Habitat restoration should only occur within HCP/NCCP Preserves except in cases where there are no restoration opportunities within the new preserves. If restoration must occur outside preserves, it will occur only on public lands adjacent to or near HCP/NCCP preserves and in direct support of these preserves (e.g., along the same stream).
- The plan will include “stay ahead” provisions to ensure that land acquisition and restoration occurs ahead of development. The plan will also include a “jump start” provision to ensure that the implementing entity acquires and begins to restore some land before any impacts occur.
- Agriculture can be compatible with conservation. and mMany agricultural activities, such as grazing, will be critical for maintaining and restoring habitat values in some areas.
- The impacts of development close to the proposed HCP/NCCP Preserves will be minimized through the use of planning surveys (as described in the conservation strategy), creation of buffer zones, and more intensive management along the urban-wildland interface. The plan assumes that minimization measures will not be required for most species in isolated areas such as urban infill.
- Development will not take “no take” species (see Key Permit Terms and Conditions)
- HCP/NCCP Preserves will conserve biological resources at all scales including small-scale features such as rock outcrops, native grassland vegetation associations, seeps, springs, and other features determined to be important to native biological diversity.
- The plan will contribute substantially to the recovery of the Alameda whipsnake despite relatively low impacts to this species because the inventory area includes such a large proportion of this species’ entire range (approximately 20%).
- The implementing entity will acquire and manage land in key areas to maintain connectivity between ~~Alameda County and Contra Costa County and neighboring counties~~ to support ~~landscape-level ecological functions such as~~ the long-term survival of the San Joaquin kit fox in Contra Costa County.
- Recreational use of HCP/NCCP Preserves will be limited to areas and types of uses that have negligible impacts on covered species and habitats.
- All relevant elements of this plan will be monitored in the field to ensure that the biological goals and objectives will be achieved and to inform the on-going adaptive management process.

- ~~—Perhaps we should insert the conservation biology principles discussed previously here?~~
- ~~Reference section 2.1.1???~~

Quantitative Conservation Requirements:

- Pending (the types of tables we might put here are shown below)

Land Acquisition Requirements for Terrestrial Land Cover Types (acres)							
	Total in Inventory Area	Inside Public Lands (%)	Outside Public Lands	Estimated Impact ¹ (% of Outside)	Available in Zones ²	HCP/NCCP Preservation Requirement for Compensation and Recovery ⁵ (% of Zone)	Minimum Preserved ³ (% of Remaining)
Annual grassland	<p>A table that shows land acquisition requirements by habitat type would be an appropriate insert here.</p>						
Alkali grassland							
Oak savanna							
Oak woodland							
Chaparral/scrub							
Cropland and pasture							
Total							

VI Landowner Commitments

Relevant Principles of Participation:

- ~~8. The plan should not include any provision for the use of eminent domain.~~
- ~~10. Properties bordering lands to be used as mitigation must be protected from any impacts caused by the mitigation program.~~
- ~~11. Participation in the planning process by any property owner does not constitute agreement that use of the property produces any impact on endangered species.~~
- ~~20. The HCP should not lock in permanent uses before conservation easements or fee title land interests are purchased.~~

This section ~~is also left largely blank~~ still needs more work, though several comments were made on March 20 that seem appropriate for including here as we start to fill this section out. ~~The above principles need be expanded into actual plan measures and recorded here.~~ Likewise, the ~~upcoming~~ work of the Agricultural Subcommittee ~~could~~ has generated d material for this section and should continue to do so.

Fundamental assurances:

- ~~Landowner rights should be protected.~~ The plan should respect and protect the rights of property owners.
- All land or easements purchased by the implementer of the plan must be from willing sellers. Eminent domain cannot be used.
- The plan should ~~not~~ assume that agricultural lands not purchased for conservation will not necessarily continue to be operated and to function as they do now.

Neighboring landowner assurances:

- The plan must consider the interests of property owners ~~who own land adjacent to lands that are purchased by the implementer of the plan~~ HCP/NCCP Preserves. Such land owners should be offered assurances that any proliferation of endangered species on the ~~conserved~~ Preserves ~~lands will not hinder their existing operations on the neighboring lands~~ (i.e., beyond conditions before the Preserves are established).
- Questions to be worked out: “opt-in” vs. “opt-out” (i.e., whether all neighboring lands are automatically covered and landowners can choose to opt out, or whether all neighboring lands must choose to receive protection) and how the pre-preserve baseline of endangered species is established

Financial assurances:

- HCP/NCCP fees and other funding sources must ~~be adequate to fund the fully~~ fund the cost of land acquisition and maintenance, but must not be so high as to discourage ~~necessary~~ development.
- The plan should provide the option of purchasing either conservation easements or fee title, but, given the limited use of easements in this area to date, the economic analysis should be fiscally conservative and assume that easement purchases will be rare.
- The plan will operate in and ~~effect~~ affect the local real estate market. This role must be undertaken sensitively to avoid significant disruptions of the private marketplace.

Agricultural assurances:

- The plan should contribute to keeping grazing viable, both as an economical agricultural activity and as a necessary habitat ~~conservation/~~ and species management tool.
- Lands conserved for habitat may constitute an increasingly significant portion of the agricultural resource in the area. Land management practices must maximize the compatibility of agriculture with conservation, avoid all unnecessary restrictions of agricultural operations, and generally support the viability of agriculture in East County.
- The plan will include a provision to allow for a transfer of agricultural conservation easements to lands with equal or greater biological value to allow for flexibility in future agricultural operations

VII Implementing Entity

Relevant Principles of Participation:

- ~~15. There must be a committee of stakeholders established in advance of the planning process which includes landowner representatives, environmental organizations, and other interested parties. A similar committee should be established for implementation of any approved HCP.~~

No detailed work to date on this topic, but this section should describe what body will be responsible for implementing the HCP/NCCP, what entity will be responsible for acquiring and managing the land (could be the same, or the overall implementation authority could delegate or contract for such responsibilities), what responsibilities are assigned to the implementing authority, etc.

VIII Funding to Implement HCP/NCCP

Relevant Principles of Participation:

- ~~13. The plan must be economically feasible to implement and the total cost of implementation of the plan, including soft costs, land acquisition, maintenance and monitoring must be known prior to adoption.~~
- ~~16. Funding of the HCP proposed for East Contra Costa County should be as broadly based as is justified by the purpose and content of the plan when written. Cost allocations should be guided by regulatory obligations, cumulative responsibility for impact, and by who benefits from non-regulatory components of the plan. Developer fees for permits and public funds, possibly including water rates and/or bond funds, should be included.~~
- ~~18. There should be federal participation in HCP funding since this effort is a pass-through of obligations imposed by USFWS on other federal agencies under Section 7 of the Endangered Species Act.~~

This section should summarize how much the plan will cost to implement and how this will be funded. The cost estimate should be broken down by acquisition, restoration, management, monitoring, and administration. Fund raising aspect should include information on the amount of the fee on new development seeking permits through the plan and details on other funding sources and the amount of revenue to be generated through each of these. The preliminary land valuation memo and the funding sources memo have draft background information on these topics.

IX Adaptive Management and No Surprises Regulatory Assurances

Relevant Principles of Participation:

- 6. Any HCP must have a "no surprises" clause consistent with the current federal policy. Should the no surprises clause be invalidated by court action, the HCP implementing agreement should be terminable by local agencies.**
- 7. Consistent with the "no surprises" policy which precludes changes to the terms of permits based on future biological conditions, the plan should not impose costs of any contingent mitigation on private property owners. However, the plan may include inflation corrections in the mitigation fee, different fees for different specific impacts, and assurances that funding keeps pace with habitat protection benchmarks established in the HCP conservation strategy.**

This section ~~should will~~ summarize and expand on key assurances such as described in principles 6 and 7 ~~and should also summarize the adaptive management program. Preliminary suggestion is keeping these topics together because they are obviously linked.~~

No Surprises Assurances

- The permittees will obtain "No Surprises" assurances so that the implementing entity will not be responsible for additional land, water, money, or other restrictions beyond that provided in the plan for any unforeseen circumstances or changed circumstances not provided for in the plan.
- The unlisted covered species are addressed in the plan as if they were listed, so if the unlisted covered species are listed in the future, the permit will be amended to include these species with no additional mitigation requirements.
- The plan should not impose costs of any contingent mitigation on private property owners. However, the plan may include inflation corrections in the mitigation fee, different fees for different types of impacts, and assurances that funding keeps pace with habitat protection benchmarks established in the plan.

X Amendment

Not sure we will want to keep such a section in this framework, but I thought it might be useful to think in these terms because consideration of the amendment process may help us balance the desire to resolve all issues in the plan with the need to maintain some flexibility over the long term.

~~Remaining Principles of Participation~~

~~1. The U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) should allow development consistent with local plans to proceed as before (in accordance with existing permitting requirements) until any HCP is implemented.~~

- ~~2. The plan must be based on respectable and credible biological information on the presence of endangered species and on sound scientific analyses, i.e. the need exists and the program will produce the intended result. A scientific advisory committee should be created and there should be independent peer review by scientists specializing in conservation biology.~~
- ~~3. USFWS and CDFG must agree in advance not to unreasonably withhold approval of the HCP nor insist on modification after all parties have agreed to the process and local agencies have approved the resultant HCP.~~
- ~~4. USFWS, CDFG and the plan sponsors should agree to hold periodic reviews during the development of the plan to avoid any major disagreements later.~~
- ~~5. The Incidental Take Permit must be totally consistent with the approved HCP.~~
- ~~21. USFWS and CDFG should allow public infrastructure projects, such as those for roads, highways, water delivery, sanitation, storm drainage, and flood control to proceed in accordance with existing permit requirements in an expeditious and timely manner before an HCP is implemented.~~